

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE SERVICES**

**Before the Commissioner of Financial and Insurance Services**

**In the matter of**

**XXXXX**

**Petitioner**

**File No. 85115-001**

**v**

**U. S. Health and Life Insurance Company**  
**Respondent**

**Issued and entered**  
**this 26th day of November 2007**  
**by Ken Ross**  
**Acting Commissioner**

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On September 14, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner, after requesting and receiving additional information, accepted the request on October 2, 2007.

The Commissioner notified U. S. Health and Life Insurance Company (USHL) of the external review and requested the information used in making its adverse determination. Information was received on October 16 and 29, 2007, from USHL.

Initially this case appeared to involve only contractual issues so the Commissioner did not assign it to an independent review organization (IRO) for review by a medical professional. Upon further evaluation the Commissioner determined this case would benefit from review by an outside expert and assigned it to an IRO. On November 1, 2007, the IRO completed its review and sent it

to the Office of Financial and Insurance Services.

## **II FACTUAL BACKGROUND**

The Petitioner has group health care coverage as an eligible dependent of her husband through his employment. The Petitioner had a miscarriage and subsequent surgical procedure on April 13, 2007. Three (3) cytogenetic tests were performed to determine the reason for the miscarriage.

USHL approved coverage for the surgical procedure and related services but denied coverage for the cytogenetic tests, saying they were not medically necessary. When the Petitioner appealed, USHL reviewed the claim but upheld its denial. A final adverse determination was issued August 27, 2007.

## **III ISSUE**

Is USHL correct in denying coverage for the Petitioner's cytogenetic tests?

## **IV ANALYSIS**

### **Petitioner's Argument**

The Petitioner says that as a result of a miscarriage in April 2007 her physician recommended cytogenetic testing to determine the cause of the loss of pregnancy to avoid future loss. Her physician states the cytogenetic tests were necessary to find the reason for the loss of pregnancy.

The Petitioner argues that USHL should provide coverage for her cytogenetic tests because they were medically necessary to diagnose the cause of her miscarriage.

### **U. S. Health and Life Insurance Company's Argument**

USHL asserts that the claims for the services provided to the Petitioner have been processed according to the terms of her policy. The policy excludes coverage for medical treatment or services which are not medically necessary.



Section 7.4, under “Special Provisions,” contains these exclusions:

7.4 “General Exclusions” The calculation of benefits payable under this Policy shall not include or be based upon any charge made for or in connection with any Hospital Confinement, or any examination, or any surgical, medical or other treatment, or any service or supply:

\* \* \*

3. which is not Medically Necessary to the care and treatment of any Injury or Illness of the Covered Person on whose account the charge is made, unless such procedure is specifically covered herein; or

\* \* \*

11. charges for care, treatment, services, and supplies which are not uniformly and professionally endorsed by the general medical community as standard medical care, including care, treatment, services and supplies which are experimental in nature[.]

“Medical necessity” is defined in section 3.43 of the policy (page 8):

“Medically Necessary” means that a specific service or supply is: (a) reasonably required for the treatment or management of the medical condition; (b) commonly and customarily recognized by physicians as appropriate in the treatment or management of the medical condition; (c) other than educational or experimental in nature.

\* \* \*

USHL says the Petitioner’s insurance covers care and treatment that is medically necessary to treat an injury or illness. USHL further says the Petitioner’s medical records do not indicate there was an injury or illness and testing to determine the cause or reason for the Petitioner’s miscarriage is not treatment of an injury or illness.

USHL argues that the cytogenetic tests were not medically necessary and thus no benefits are payable for them.

#### Commissioner’s Review

The Commissioner has carefully reviewed the arguments of both parties as well as the documentation and certificate of insurance. The Commissioner understands that it may be desirable to perform testing to determine if there was a specific reason for the Petitioner’s miscarriage. The certificate however, requires that services and treatment be medically necessary.



In reviewing adverse determinations that involve issues of medical necessity or clinical review criteria, the Commissioner requests an analysis and recommendation from an IRO. The IRO expert reviewing this case is a practicing physician who is board certified in obstetrics and gynecology.

The IRO reviewer noted that there is no evidence in the case file that demonstrates that the Petitioner had any medical or genetic disorders. The IRO reviewer also noted that there is no evidence of recurrent miscarriages.

The IRO reviewer explained that a pregnancy loss does not constitute an illness according to the standards of care for normal and problem pregnancies. The reviewer further explained that “cytogenetic testing of products of conception is not medically necessary for treatment of an illness or injury under these circumstances.” The IRO reviewer determined that medical necessity has not been established for the Petitioner’s cytogenetic tests.

The Commissioner is not required in all instances to accept the IRO’s recommendation. However, the IRO recommendation is afforded deference by the Commissioner; it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the findings of the IRO reviewer and finds that the medical necessity of the Petitioner’s cytogenetic tests

on

April 13, 2007, has not been established.

## **V ORDER**

The Commissioner upholds U. S. Health and Life Insurance Company’s adverse determination of August 27, 2007. USHL is not required to provide coverage for the Petitioner’s cytogenetic tests.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order

in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.